

REMARKS

This Amendment is being filed in response to the Final Office Action mailed October 31, 2008, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the remarks to follow are respectfully requested.

In the Final Office Action, claims 1-4 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,661,703 (Moribe). Claims 5-6 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Moribe in view of U.S. Patent No. 6,125,089 (Shigemori). Further, claim 7 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Moribe in view of Shigemori and U.S. Patent No. 7,280,461 (Endoh). It is respectfully submitted that claims 1-7 are patentable over Moribe, Shigemori and Endoh for at least the following reasons.

Moribe is directed to an optical recording medium in which a medium identification code is recorded by using a nonvolatile mark which is formed through irreversible change of a recording film. Recording and reproducing programs reproduce the medium identification code, and encode/decode data based on the reproduced

medium identification code. This prevents making or using an illegal copy onto another disk.

It is respectfully submitted that, the present invention as recited in independent claim 1, amongst other patentable elements, recites (illustrative emphasis provided):

first area and a second area comprising a rewritable material, said first area being defined as a read-only area by type information recorded on said data carrier in an unerasable way.

Defining a first area as read-only area by type information recorded on the data carrier in an unerasable way is nowhere disclosed or suggested in Moribe. Rather, Moribe merely discloses a medium identification code recorded by using a nonvolatile mark. The Moribe medium identification code has nothing to do with defining any portion of the disk as a read-only area. As specifically recited on column 5, lines 32-36:

the medium identification code recorded as such a nonvolatile mark cannot be erased through an erasing operation. However, a medium identification code having been illegally copied is erased through an erasing operation, and hence cannot be reproduced.

That is, the Moribe identification code is to prevent illegal copies of the Moribe disc. The Moribe identification code does not define any area on the disc as being read only, as recited in

independent claim 1. Rather, Moribe identification code is merely stored as nonvolatile mark that cannot be erased. The Moribe identification code does not even define any areas whether read only or not, let alone defining "a read-only area by type information," as recited in independent claim 1.

Defining such a read-only (ROM) area by type information provides substantial benefits, such as allowing a provider to provide a ROM content to a user, such as advertisements, for example, thus reducing the cost of such a data carrier to the user due to the subsidies provided by the advertisements, including free distribution of such data carriers, as described on page 3 lines 3-9 of the specification, as well as preventing hacking of the data carrier for unauthorized distribution as a conventional data carrier. (See page 2, lines 24-31 of the specification) Shigemori and Endoh are cited to allegedly show other features and do not remedy the deficiencies in Moribe.


Accordingly, it is respectfully submitted that independent claim 1 is allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-7 are also allowable at least based on their dependence from

amended independent claim 1.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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